

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

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|---|---|--------------------|
| FRATERNAL ORDER OF POLICE, LODGE NO. 1, |) | |
| |) | |
| Charging Party, |) | ULP 14-07-963 |
| |) | |
| v. |) | ORDER OF DISMISSAL |
| |) | |
| CITY OF WILMINGTON, DELAWARE, |) | |
| |) | |
| Respondent. |) | |

Appearances

Jeffrey M. Weiner, Esq., for FOP Lodge #1

Tara DiRocco, Esq., for City of Wilmington

1. Fraternal Order of Police Lodge No. 1 (“FOP 1”) is an employee organization within the meaning of §1602(g) of the Police and Firefighters Employment Relations Act, 19 Del.C. Chapter 16 (“POFERA”). FOP 1 is the exclusive bargaining representative of the bargaining unit of all City of Wilmington police officers below the rank of Captain, within the meaning of 19 Del.C. §1602(h).

2. The City of Wilmington, Delaware (City) is a public employer within the meaning of 19 Del.C. §1602(l).

3. FOP 1 and the City were parties to a collective bargaining agreement which had a term of the July 1, 2010 through June 30, 2011. At all times relevant to the processing of this Charge, the parties were engaged in negotiations for a successor agreement.

4. On July 23, 2014, the FOP filed an unfair labor practice charge with the Public

Employment Relations Board (PERB) alleging conduct by the City in violation of 19 Del.C. §1607(a)(1), (a)(5) and (a)(6).

5. On August 15, 2014, the City filed its Answer to the Charge, including New Matter, denying the conclusions and assertions made by the FOP that it had violated the POFERA. FOP 1 filed its response to the City's new matter on August 22, 2014.

6. A probable cause determination was issued on January 16, 2015, finding the pleadings are sufficient, however, to establish that the City may have violated 19 Del.C. §1607 (a)(1), (a)(5), and/or (a)(6), as alleged. Because the resolution of the allegations of this Charge turned on application of the parties' collective bargaining agreement, the Charge was deferred to the negotiated grievance and arbitration procedure for resolution.

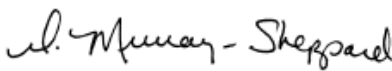
7. By email dated March 20, 2015, the FOP advised this office that the membership had ratified a settlement of the grievance for all bargaining unit employees except Lieutenants. The email stated, "The separate grievance/arbitration as to Lieutenants remains and should be scheduled for hearing."

8. By email dated December 30, 2016, FOP 1 advised this office, "The City of Wilmington Police Department has now realigned the Lieutenants with their respective platoons and they now rotate on schedule with the officers assigned to them and therefore the ULP is moot and can be considered withdrawn."

WHEREFORE, this unfair labor practice charge is hereby dismissed.

IT IS SO ORDERED.

DATE: January 13, 2017


DEBORAH L. MURRAY-SHEPPARD
Executive Director
Del. Public Employment Relations Bd.